

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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	: Civil Action No.: 1:12-cv-00451-SS
DOUGLAS MASTERS, Individually and On	:
Behalf of All Others Similarly Situated,	:
	:
Plaintiff,	:
	:
vs.	:
	:
TIME WARNER CABLE INC.,	:
	:
Defendant.	:
_____	X

**JOINT STIPULATION AND [PROPOSED] ORDER SETTING BRIEFING
SCHEDULE ON AMENDED COMPLAINT**

WHEREAS, on May 21, 2012, Plaintiff Douglas Masters, individually and on behalf of all others similarly situated ("Plaintiff"), filed a Class Action Complaint against Defendant Time Warner Cable Inc. ("Defendant"), alleging violations of the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. §227, and §392.302(4) of the Texas Financial Code (the "Complaint") (*see* Dkt. No. 1);

WHEREAS, on July 30, 2012, Defendant filed its Motion to Dismiss or, in the Alternative, To Stay and Compel Arbitration ("Motion to Compel Arbitration") and Motion to Dismiss Count II of Plaintiff's Class Action Complaint ("Motion to Dismiss Count II") (*see* Dkt. Nos. 11, 12);

WHEREAS, Plaintiff's responses to Defendant's Motion to Compel Arbitration and Motion to Dismiss Count II are currently due on or before August 13, 2012;

WHEREAS, Plaintiff desires to amend his Complaint as a matter of right pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure;

WHEREAS, if Plaintiff files an amended complaint, this will likely result in a need for Defendant to submit renewed motions based on the allegations in the amended complaint;

WHEREAS, the parties have met and conferred and agreed to the following proposed schedule with regard to the filing and briefing of an amended complaint;

THEREFORE, the parties agree as follows:

1. Plaintiff has an extension of 21 days from the date of this Order to respond to Defendant's Motion to Compel Arbitration and Motion to Dismiss Count II;
2. If Plaintiff files an amended complaint within that time period, then Defendant's Motion to Compel Arbitration and Motion to Dismiss Count II shall be deemed withdrawn;
3. Defendant has 21 days from the filing of an amended complaint to file a renewed Motion to Compel Arbitration, answer and/or otherwise respond to the amended complaint;
4. If Defendant files a renewed Motion to Compel Arbitration in response to any amended complaint, the parties agree that Defendant's deadline to file a responsive pleading or a motion to dismiss on any other grounds shall be stayed until 21 days after a ruling is issued by the Court on the renewed Motion to Compel Arbitration;
5. If Defendant files a renewed Motion to Compel Arbitration in response to any amended complaint, the parties agree that discovery (other than discovery reasonably necessary to support or oppose Defendant's renewed Motion to Compel Arbitration) will be stayed until 10 days after a ruling is issued on the Motion to Compel Arbitration.

Respectfully submitted this 6th day of August, 2012.

<u>/s/James L. Davidson</u> JAMES L. DAVIDSON* Florida Bar No. 723371 MICHAEL L. GREENWALD* Florida Bar No. 761761 GREENWALD DAVIDSON PLLC 5550 Glades Road, Suite 500 Boca Raton, FL 33431	<u>/s/ Michael S. French</u> MICHAEL S. FRENCH* Georgia Bar No. 276680 PAUL G. SHERMAN* Georgia Bar No. 100153 JOHN P. MITTELBACH* Georgia Bar No. 472078 WARGO & FRENCH LLP
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PURSUANT TO THE STIPULATION, IT IS SO ORDERED

DATED this the ____ day of _____, 2012.

HON. SAM SPARKS
UNITED STATES DISTRICT JUDGE